

GENERAL ACCOUNTING OFFICE

Fastener Quality Act Amendments Act of 1999; Statutorily Required Study.

AGENCY: General Accounting Office.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The General Accounting Office is requesting interested parties to provide information for a report to Congress on any changes that manufacturers, importers, distributors, or retailers of fasteners have made as a result of the “small lot” exemption clause of the Fastener Quality Act Amendments Act of 1999 (FQAAA). Fasteners include metallic screws, nuts, bolts, studs, or load-indicating washers; and manufacturers, importers, distributors and retailers make up the fastener industry. The FQAAA exempts those fasteners that are “a part that is ordered for use as a spare, substitute, service, or replacement part, unless that part is in a package containing more than 75 of any such part at the time of sale, or a part that is contained in an assembly kit.” We refer to both exemptions as the “small lot” exemption. The FQAAA requires GAO to submit a report to Congress “describing any changes in industry practice” resulting from or apparently resulting from the enactment of the small lot exemption; we expect to use information from your comments in this report.

DATES: Comments must be received by November 30, 2000.

ADDRESSES: Send a copy of any comments or examples of changes in industry practice to the U.S. General Accounting Office, General Government Division,

Room 2908, 441 G St., NW., Washington, DC 20548, Attention: Ms. Theresa Roberson. Submit electronic comments and other data to fasteners@gao.gov. See SUPPLEMENTAL INFORMATION for file formats and other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Roberson, 202-512-3431, email: roberson.t.ggd@gao.gov, or Mr. Al Stapleton, 202-512-3418, email: stapleton.a.ggd@gao.gov.

SUPPLEMENTARY INFORMATION: Metallic screws, nuts, bolts, studs or load-indicating washers are collectively known as fasteners. Sec. 3(6)(B) of the Fastener Quality Act Amendments Act of 1999 (FQAAA), Pub. L. 106-34, amended the Fastener Quality Act (FQA), Pub. L. 101-592, by adding the small lot exemption quoted above. Congress was concerned that the small lot exemption created a potential loophole for members of the fastener industry to circumvent the law's requirements and sell unsafe fasteners either in packages of 75 or fewer or in assembly kits. This concern led Congress to include sec. 12 in the FQAAA requiring GAO to prepare a report to Congress describing any changes in fastener industry practice "resulting from or apparently resulting from" the small lot exemption. The report is to be issued not later than 2 years after enactment of the FQAAA, June 8, 2001. This notice asks interested parties to provide information on any changes in fastener industry practice resulting from or apparently resulting from the small lot exemption. We expect to use information from your comments in our report.

Background

In the late 1980s, congressional hearings showed that poor quality or mislabeled fasteners might have posed a threat to public safety. The Defense Supply Center (DSC), which supplies fasteners to the armed services, found its inventory contained over 30 million “bogus” fasteners and Army depots contained another 2.6 million counterfeit fasteners. Similarly, the National Aeronautics and Space Administration (NASA) found substandard fasteners in space shuttle equipment and six of its fastener vendors were found to have inadequate quality control systems.

As a result of the evidence presented at these hearings, Congress enacted the FQA in 1990. This law imposes a number of requirements on manufacturers, distributors, importers, and others that make and sell fasteners. To prevent unsafe fasteners from entering the U.S. market, the law requires persons who manufacture and sell fasteners covered by the Act to, among other things, assure that they meet applicable standards and specifications through laboratory testing. The Secretary of Commerce has overall responsibility for the law. Within Commerce, the National Institute of Standards and Technology (NIST) is responsible for implementing regulations and for accrediting testing laboratories, and the Bureau of Export Administration (BXA) is responsible for enforcing the law. Major concerns over this law’s potential burden on the fastener industry

delayed the Department of Commerce's implementation of final regulations for nearly a decade.

A manufacturer's costs for laboratory testing—on a per fastener basis—increase as the quantity of fasteners sold decreases. For example, fasteners sold or imported in lots of 100 will have a higher per-fastener cost for testing than lots of 1,000 or 10,000. Concerns over high testing costs for small lots led Congress to amend the FQA in 1999 to exempt from testing those fasteners that are ordered for use as spare, substitute, service, or replacement parts in packages containing 75 or fewer items, or parts contained in assembly kits. We refer to both exemptions as the “small lot” exemption.

The small lot exemption was included in the 1999 amendments to FQA in response to concerns from industries that use fasteners, particularly foreign automobile manufacturers. These users were concerned that fastener manufacturers' compliance costs for laboratory testing and recordkeeping could make fasteners purchased in small lots for service repairs and assembly kits prohibitively expensive if they were subject to the testing requirements of the FQA. In turn, these higher testing costs could lead fastener manufacturers either to stop selling fasteners in small lots or to continue offering them for sale but at a price so high that users might stop buying them and instead substitute lower quality, lower cost, “hardware store” fasteners. Such substitutes could result in fastener failures in the end-users' products and weakening public safety rather than improving public safety as the law intended.

Congress was concerned that the small lot exemption created a potential loophole for fastener manufacturers to circumvent the FQA's requirements. This concern led Congress to include sec. 12 in the FQAAA requiring GAO to prepare a report to Congress describing "any changes in industry practice resulting from or apparently resulting from" the small lot exemption.

Changes in Treatment of Small Lots Sought

Two potential types of changes in industry practice as a result of the small lot exemption are: (1) increased marketing, distribution, and sale of safe, properly labeled fasteners manufactured after December 6, 1999, in packages of 75 or fewer or in an assembly kit to avoid the costs of complying with the Act as required of larger lots; and (2) increased marketing, distribution, and sale of poor quality, unsafe, or mislabeled fasteners manufactured after December 6, 1999, in packages of 75 or fewer or in an assembly kit to circumvent the testing requirements in the Act that would expose the mislabeling. For example, a manufacturer could use less expensive raw materials or perform tests less frequently for fasteners meeting the small lot exemption.

For example, if a farm equipment company routinely bought fasteners from a particular manufacturer in packages of 500 but after December 6, 1999, could only buy those fasteners in packages of 75 or fewer, then we would like the farm equipment company to report this change in fastener industry practice to us. As

another example, if a railroad company routinely bought assembly kits from a particular manufacturer that contained safe, properly labeled fasteners but after December 6, 1999, those assembly kits contained unsafe or mislabeled fasteners, then we would like the railroad company to report this change in fastener industry practice to us. For these and other examples in which an interested party believes that fastener industry practice has changed due to the small lot exemption, we would like (1) as complete a description as possible of the practice before and after December 6, 1999; (2) why the change in practice appears to be related to the small lot exemption as opposed to other factors; (3) whether the fasteners involved were manufactured before or after December 6, 1999; (4) any data or references to sources of data that would provide evidence of how widespread such changes in industry practice may be; and (5) the name and phone number of a person we can contact for additional information or clarification. We are seeking to obtain broad input from any interested party, including those in the government procurement community, the fastener industry (manufacturers, importers, distributors, retailers), companies large and small that purchase fasteners to assemble various products, and private individuals.

Our report is to be issued not later than 2 years after the enactment of the 1999 amendments to the FQA, June 8, 2001.

Types of Fasteners Covered by the Act

The following questions will help interested parties identify only those changes in industry practice that involve fasteners that fall within the small lot

exemption. Some of the information may be found on the fasteners themselves or on their packaging.

1. Is the fastener a screw, bolt, nut, stud, or load-indicating washer?
2. Is the fastener made of metal?
3. Does the fastener have external or internal threads?
4. Is the nominal diameter of the fastener 6mm or 1/4 inch, or greater?
5. Was the fastener through-hardened or represented as meeting a consensus standard that calls for through-hardening?
6. Was the fastener grade identification marked or represented as meeting a consensus standard that calls for grade identification marking?

If you answered “YES” to ALL of questions 1 through 6, continue to questions 7 through 11. Otherwise STOP, because any changes in fastener industry practice related to these fasteners is not to be included in the GAO report.

7. Is the fastener sold as part of an already assembled product, subassembly, or component?
8. Is the fastener grade marked 307A or manufactured in accordance with ASTM standard F432?
9. Is the fastener Federal Aeronautics Administration approved for use on an aircraft or by a foreign airworthiness authority under parts 21.29, 21.500, 21.502, or 21.617 of title 14 of the Code of Federal Regulations?
10. Is the fastener manufactured under a fastener quality assurance system (such as ISO 9000) in accordance with the FQA?
11. Is the fastener manufactured only to a proprietary standard?

If you answered “NO” to ALL of questions 7 through 11, continue to questions 12 and 13. Otherwise STOP, because any changes in fastener industry practice related to these fasteners are not to be included in the GAO report.

12. Is the fastener for use as a spare, substitute, service, or replacement part and in a package of 75 or fewer at the time of sale? (Continue to question 13.)

13. Is the fastener part of an assembly kit for another product? (Continue to question 14.)

If you answered “YES” to EITHER question 12 or 13, any changes in industry practice related to these fasteners ARE to be included in the GAO report.

For all fasteners that met ONE OR MORE of the requirements in questions 12 or 13, answer questions 14 and 15 because any changes in industry practice related to these fasteners fall within the small lot exemption.

14. Can you determine the date the fastener was manufactured? (If yes, notify GAO of the date.)

15. Have there been any changes in fastener industry practice resulting from or apparently resulting from the small lot exemption? (Report all such changes in industry practice to the GAO address above.)

Document Submission

Do not send original documents, including photographs or graphics, in the mail because they cannot be returned.

Electronic Access and Filing

This notice is available on GAO’s website at <http://www.gao.gov> under the Fastener Quality Act Amendments Act of 1999.

You may submit comments and data by sending electronic mail (email) to: fasteners@gao.gov. Please include the name and phone number of the person we should contact for clarification or additional information.

Email messages are encouraged but attachments to email messages are discouraged because of the possibility of transmitting computer viruses. If you believe such attached files are necessary to provide the requested information, please send them in ASCII or Microsoft Word format. No graphics should be sent through email, but copies of graphics may be sent to the address in the ADDRESSES section at the beginning of this document.

(Authority: 15 U.S.C.A. §5402 note.)

Dated:

Michael Brostek,

Associate Director, General Government Division.